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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,603	01/07/2002	Rakesh Bhakta	406990	6079

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EXAMINER

HOFFMAN, BRANDON S

ART UNIT PAPER NUMBER

2136

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/040,603	Applicant(s) BHAJTA, RAKESH	
	Examiner Brandon S. Hoffman	Art Unit 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-9 and 11-26 are pending in this office action.

Claim Rejections

2. The text of those sections of title 35, U.S. Code not included in this rejection can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claim 1-9, 11-21 and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Bradford et al. US (6,612,928).

Regarding claim 1: Bradford discloses a gaming device comprising: a gaming terminal, configured for playing at least a first game; (Col 10, Lines 21-22 and Col 33, Lines 51-65) a button for pressing by a game player as a part of said game;(Col 10, Line 29 and Col 33, Lines 51-65) a biometric device for measuring biometric data of the game player by sensing said biometric data directly through said button as it is pressed by the game player. (Col 33, Lines 27-29)

Regarding claim 2: Bradford discloses the gaming device of claim 1 in which said button is transparent. (Col 34, Lines 21-29)

Regarding Claim 3: Bradford discloses the gaming device of claim 2 in which said terminal carries a comparator for comparing the parameters of the game player's fingerprint with parameters obtained from another source, for player identification. (Col 32, Lines 26-32 and Col 35, Lines 4-13)

Regarding claims 4, 8, 13, 14 and 15: The method of claim 12 in which said second biometric data is obtained from a data storage device carried by the game player. (Col 32, Lines 26-32 and Col 10 lines 36-40)

Regarding claim 5, 9, 14, 16 and 20: The gaming device of claim 4 in which said data storage device is a "smart card", comprising a microprocessor. (Col 9, Lines 49-56 and Col 5, lines 36-53)

Regarding Claim 6: Bradford discloses the gaming device of claim 4 further comprising a device for storing the measured biometric data of the game player for later access. (Col 35, Lines 2-4 and Col 36, lines 3-6)

Regarding claim 7: Bradford discloses a gaming device comprising: a gaming terminal, configured for playing of at least a first game; (Col 10, Lines 21-22 and Col 33, Lines 51-65) a button for pressing by a game player as part of said game; (Col 10, Line 29 and Col 33, Lines 51-65) a biometric device for measuring parameters of a fingerprint of

the game player as the player touches the button by directly sensing the biometric data through the button as it pressed by the game player, said button being transparent; (Col 33, Lines 27-29) said terminal also carrying a comparator for comparing the parameters of the game players' fingerprint with parameters obtained from another source, for player identification; (Col 35, Lines 4-13) and further comprising a device for storing the measured biometric data of the game player for later access. (Col 35, Lines 2-4 and Col 36, lines 3-6)

Regarding Claims 11 and 17: Bradford discloses a gaming method comprising: acquiring first biometric data of a game player by observing said data through a button of a gaming machine when touched by the game player; (Col 32, Lines 41-44) comparing said biometric data with second biometric data provided by another source; (Col 32, lines 43-45) and activating said gaming machine for play by the game player if said first and second biometric data have a close similarity. (Col 32, Lines 44-49 and Col 35, Lines 10-19)

Regarding claims 12 and 18: The method of claim 11 in which said first and second biometric data each comprise parameters of a fingerprint. (Col 32, Line 43)

Regarding claims 21 and 24: Bradford discloses the method of claim 11 in which said first biometric data of the game player is directly observed through said machine button when touched by the game player, said button being transparent. (Col 34, Lines 21-29)

Regarding Claims 25 and 26: Bradford discloses the device of claim 1 in which said biometric device senses said biometric data directly as a signal passing through said button. (Col 34, Lines 21-29 and Col 35, Lines 35-51)

Claim Rejections - 35 USC § 103

4. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradford et al. US (6,612,928) in view of Stratford et al. US Published Application (2002/0021001).

Regarding Claims 22 and 23: Bradford discloses a gaming method comprising acquiring first biometric data of a game player through a button on the gaming machine; (Col 32, Lines 41-44) storing biometric data obtained from the player to be used later; (Col 35, Lines 2-4 and Col 36, lines 3-6) comparing biometric data with second biometric data provided by another source; (Col 32, lines 43-45) and activating the gaming machine for play if there is a match. (Col 32, Lines 44-49 and Col 35, Lines 10-19) but he doesn't explicitly disclose the system storing the biometric data if a mismatch occurs. However Stratford discloses a biometric identification system (see abstract) for real time on-the-spot identification of a card owner (Paragraph 0011, Lines 1-5) wherein the system compares the person finger print to the finger print on the card and stores the fingerprint data if a mismatch occurs (Paragraph 0013, Lines 6-14, item 485 FIG. 4, item 525 FIG. 5 and item 625 FIG.6). Therefore it would have been obvious to ordinary skilled in the

art at the time the invention was made to modify Bradford gaming method with the teachings of Stratford to include the step of storing players biometric data when there is a mismatch between the actual player's fingerprint data and the fingerprint data stored on the card. One would be motivated to do so in order enable the system to log failed attempts to use the system and identify users trying to make unauthorized use of the gaming machine.

Relevant Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cumbers (U.S. Patent No. 6,234,900) teaches a gaming situation where a player is given a player card and at each gaming device is verified through some form of biometrics if they are the person who the card says they are. The patent focuses on images, but suggests any biometric will do (such as fingerprints).

Mathurin, Jr. (U.S. Patent No. 5,473,144) teaches a credit card with a fingerprint stored thereon, wherein the user verifies their identity by actively placing their finger on a fingerprint reader when presenting their card to compare the two fingerprints.

Response to 131 Affidavit

6. Examiner would like to point out a few deficiencies in the declarations provided by the applicant (Rakesh Bhakta) and attorney (Garrettson Ellis).

CONCEPTION

Applicant's declaration showing conception with a "Patent Request Display" (exhibit A) properly shows conception of independent claim 1. However, some of the dependent claims are not supported in exhibit A. For example, claims 2, 21, and 24, state that the button is transparent. Nowhere in the Patent Request Display is there a disclosure of transparent buttons.

DILIGENCE

Items 3 and 4 are deficient with the showing of diligence from the "conception" date (June 26, 2001) to the first "action" being performed – faxing the patent request form to the patent attorney (August 22, 2001). There is no activity from June 26, 2001 (or even July 5, 2001 – which is when the patent request display was printed, although the Office is not sure who printed or received this document), to August 22, 2001. This is a period of almost two months.

Items 5 and 6 are acceptable steps to show diligence.

Item 7 is irrelevant for showing diligence.

Item 8 is acceptable for showing diligence, as it shows the attorney as being active while working on the patent application draft.

Item 9 raises questions as to what the attorney meant when he said, "I believe I took up in proper order." What exactly is proper order, and "believe" lends way to speculation.

Items 10-13 are acceptable steps to show diligence.

Item 14 is deficient in that there is a big time gap between the applicant receiving the revised patent application (including the declaration), signing it, and sending it back to the attorney.

Item 15 is acceptable for showing diligence, as it constructively reduces the invention to practice.

OTHER ISSUES WITH DILIGENCE

There needs to be a showing, in applicant's declaration, that the applicant was diligent in performing certain tasks while the patent draft is in his possession. For example, items 8, 10, and 13, are steps that leave time gaps where the applicant has no showing of diligence, even though documents were in his possession.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon S. Hoffman whose telephone number is 571-272-3863. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2136

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Branda Hph

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